

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

LAWRENCE J. KANSKY	:
	: CIVIL NO. 3: 20-CV-0042
Plaintiff,	:
	:
vs.	: (JUDGE MANNION)
	:
LUZERNE COUNTY, LUZERNE	:
COUNTY SHERIFF'S DEPARTMENT,	:
and LUZERNE COUNTY SHERIFF	:
BRIAN SZUMSKI, individually and in	:
his official capacity,	:
	:
Defendants:	: (ELECTRONICALLY FILED)

DEFENDANTS' MOTION TO EXCEED WORD COUNT LIMITATION

AND NOW, come the Defendants, LUZERNE COUNTY, LUZERNE COUNTY SHERIFF'S DEPARTMENT AND LUZERNE COUNTY SHERIFF BRIAN SZUMSKI, by and through their counsel, Dougherty, Leventhal & Price, LLP, and hereby file this Motion to Exceed Word Count Pursuant to L.R. 7.8(b), and in support thereof states the following:

1. On or about January 9, 2020, Plaintiff Lawrence Kansky filed a Complaint in against Defendants asserting civil rights violations under the First, Second and Fourteenth Amendments. After Defendants filed a Motion to Dismiss,

Plaintiff filed an Amended Complaint on March 31, 2020. Said Amended Complaint sets forth the following:

- Count I alleges First Amendment retaliation claim;
- Count II alleges a violation of the Second Amendment in that Kansky's due process rights were violated because the revocation was initiated without due process;
- Count III alleges a violation of Kansky's due process for lack of both a pre-deprivation and post-deprivation process to protest his gun carrying rights.; and
- Count IV sets forth a *Monell* claim against Luzerne County alleging it had instituted an unconstitutional policy that allows for the revocation of one's firearm without due process.

2. On April 14, 2020, Defendants filed a Motion to Dismiss Plaintiff's Amended Complaint. Defendants' supporting brief was filed on April 28, 2020.

3. On May 8, 2020, Plaintiff filed a Second Amended Complaint adding a claim for a facial and as-applied challenge to Defendant County's policy of revocation of a license to carry a firearm claiming it is vague and overly broad. Defendants filed a Motion to Dismiss Plaintiff's Second Amended Complaint for Failure to State a Claim on May 22, 2020.

4. On March 25, 2021, Plaintiff filed a Third Amended Complaint setting forth basically the same issues as his prior Second Amended Complaint. The one exception noted in the Third Amended that he changed his position with respect to the challenge of the County's policy of revocation of a license to carry firearm as being invalid based on how the policy was enacted as opposed to be "vague and overly broad".

5. On April 6, 2021, Defendants filed a Motion to Dismiss Plaintiff's Third Amended Complaint. Pursuant to Federal Rules of Civil Procedure and Local Rule 7.5, Defendants' supporting brief is due on or before April 20, 2021.

6. In preparing their brief, Defendants believe that in order to adequately address each of the five claims listed above, they will require relief from Rule 7.8(b) which limits the number of words in a brief to 5,000 words. Defendants are hereby request leave to file a brief in excess of 5,000 words but not to exceed 11,000 words in length.

7. Undersigned counsel contacted counsel for Plaintiff, Cynthia L. Pollick, Esquire; and she does not concur in the filing of this Motion.

WHEREFORE, Defendants pray for the entry of an Order allowing them to file a brief in support of their motion to dismiss Plaintiff's Third Amended Complaint that does not exceed 11,000 words.

Respectfully submitted:

DOUGHERTY, LEVENTHAL & PRICE, L.L.P.

By: s/Sean P. McDonough
Sean P. McDonough, Esquire
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CERTIFICATE OF -NONCONCURRENCE

I, Sean P. McDonough, Esquire, attorney for Defendants, hereby certify that I contacted counsel for the Plaintiff, Cynthia I. Pollick, Esquire; and she does not concur in the filing of this motion.

Date: April 6, 2020

s/Sean P. McDonough,
Sean P. McDonough, Esquire
Attorney For Defendants

CERTIFICATE OF SERVICE

I, SEAN P. McDONOUGH, ESQUIRE, hereby certify that on the 14th day of April, 2021, I served the foregoing MOTION TO EXCEED WORD COUNT LIMITATION , upon the persons indicated below as follows:

Via electronic filing

Cynthia L. Pollick, Esquire
The Employment Law Firm
363 Laurel Street
Pittston, PA 18640
pollick@lawyer.com

Respectfully submitted,

DOUGHERTY, LEVENTHAL & PRICE, L.L.P.

s/Sean P. McDonough

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